

Message Text

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TO AMEMBASSY KHARTOUM PRIORITY

C O N F I D E N T I A L STATE 277017

E.O. 11652: GDS

TAGS: SHUM, MASS, SU

SUBJECT: CLEARANCE OF DRAFT HUMAN RIGHTS OBSERVANCE REPORT

REF: STATE 231122

1. SECTION 502B OF THE FOREIGN ASSISTANCE ACT OF 1961 AS AMENDED BY THE INTERNATIONAL SECURITY ASSISTANCE ACT AND ARMS EXPORT CONTROL ACT OF 1976 STATES IN PARAGRAPH 502B(B) THAT THE "SECRETARY OF STATE SHALL TRANSMIT TO THE CONGRESS, AS PART OF THE PRESENTATION MATERIALS FOR SECURITY ASSISTANCE PROGRAMS PROPOSED FOR EACH YEAR, A FULL AND COMPLETE REPORT...WITH RESPECT TO PRACTICES REGARDING THE OBSERVANCES OF AND RESPECT FOR INTERNATIONALLY RECOGNIZED HUMAN RIGHTS IN EACH COUNTRY PROPOSED AS A RECIPIENT OF SECURITY ASSISTANCE." PARAGRAPH
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(D) (2) OF SECTION 502B AS AMENDED DEFINES "SECURITY

ASSISTANCE" TO INCLUDE SECURITY SUPPORTING ASSISTANCE, FMS, CERTAIN COMMERCIAL SALES, CREDITS AND OTHER PROGRAMS. THE FULL TEXT OF THE AMENDED SECTION 502B WAS TRANSMITTED BY THE REFTEL.

2. AS INDICATED IN THE REFTEL, THE DEPARTMENT HAS BEEN COLLECTING AND PREPARING INFORMATION ON THE HUMAN RIGHTS

SITUATIONS IN SECURITY ASSISTANCE RECIPIENT COUNTRIES IN ANTICIPATION OF SUBMITTING IT TO CONGRESS EARLY NEXT YEAR AS PART OF THE CONGRESSIONAL PRESENTATION DOCUMENT (CPD) ON SECURITY ASSISTANCE. HUMAN RIGHTS REPORTING FROM OVERSEAS POSTS, INFORMATION FROM NON-GOVERNMENTAL ORGANIZATIONS SUCH AS THE INTERNATIONAL COMMISSION OF JURISTS, AMNESTY INTERNATIONAL AND FREEDOM HOUSE, REPORTS BY INTERNATIONAL ORGANIZATIONS AND CONGRESSIONAL HEARINGS ON HUMAN RIGHTS HAVE BEEN COMPILED IN A DRAFT HUMAN RIGHTS OBSERVANCE REPORT ON EACH SECURITY ASSISTANCE RECIPIENT COUNTRY. THE DRAFT REPORT ON SUDAN IS ENCLOSED.

3. THE DRAFT REPORT FOLLOWS A STANDARD FORMAT CALLING FOR A DESCRIPTION OF THE POLITICAL AND LEGAL SITUATION IN THE COUNTRY, A DESCRIPTIVE STATEMENT OF ACTUAL OBSERVANCE OF RIGHTS AND FREEDOMS IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS WITH SPECIFIC ATTENTION TO MATTERS SPECIFIED IN THE INCLUSION CLAUSE OF PARAGRAPH (D)(1) OF SECTION 502B AS AMENDED, AND A REFLECTION OF OTHER HUMAN RIGHTS REPORTING. THE TEXT OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS WAS TRANSMITTED TO THE FIELD AS AN ENCLOSURE TO 75 STATE A-1045.

4. THE DRAFT REPORT HAS BEEN PARTIALLY CLEARED IN THE DEPARTMENT AND IS BEING USED INTERNALLY IN THE CURRENT REVIEW OF PROPOSED PROGRAMS FOR FY 1978. BEFORE FINAL CLEARANCE IN THE DEPARTMENT CAN BE OBTAINED FOR THE DRAFT REPORT'S INCLUSION IN THE CPD AS AN UNCLASSIFIED DOCUMENT (WHICH MAY BE PUBLICLY DISCLOSED IF CONGRESS SO CHOOSES), THE DEPARTMENT REQUESTS THE EMBASSY TO CAREFULLY REVIEW, CORRECT, UPDATE AND CLEAR THE DRAFT. (UNTIL THE DRAFT IS CLEARED FOR RELEASE, HOWEVER, IT REMAINS A WORKING CONFIDENTIAL

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DOCUMENT CLASSIFIED CONFIDENTIAL UNDER THE PROVISIONS OF EXECUTIVE ORDER 11652).

5. IN CONDUCTING ITS REVIEW, THE EMBASSY SHOULD ENSURE THAT THE INFORMATION IN THE DRAFT CONSTITUTES A "FULL AND COMPLETE REPORT -- WITH RESPECT TO PRACTICES REGARDING THE OBSERVANCE OF HUMAN RIGHTS" IN SUDAN, AS REQUIRED IN SECTION 502B(B) AS AMENDED.

6. REQUESTED ACTION: THE EMBASSY IS REQUESTED TO REVIEW THE ENCLOSED DRAFT AND PROVIDE COMMENTS, SUGGESTED REVISIONS, UPDATING INFORMATION, ADDITIONAL INFORMATION IN SATISFACTION OF THE REQUIREMENTS OF SECTION 502B(B) AS AMENDED, AND CLEARANCE BY TELEGRAM TO REACH THE DEPARTMENT AS CLOSE TO NOVEMBER 15 AS POSSIBLE.

7. TEXT OF DRAFT REPORT IS AS FOLLOWS:

8. SUDAN: (I) POLITICAL SITUATION:

PRESIDENT NIMEIRI CAME TO POWER FOLLOWING A MAY 1969 MILITARY COUP. IN 1972 HIS GOVERNMENT NEGOTIATED THE ADDIS ABABA ACCORD ENDING THE 17-YEAR OLD CIVIL WAR WHICH HAD PITTED THE CENTRAL GOVERNMENT, DOMINATED BY ARABIC-SPEAKING NORTHERN SUDANESE, AGAINST THE BLACK AFRICAN SOUTH OF THE COUNTRY. BESIDES HALTING THE ARMED HOSTILITY AND CIVIL UPHEAVAL, THE ACCORD PROVIDED REGIONAL AUTONOMY, AND AMNESTY TO THE REBELS, AND INTEGRATED SOUTHERNERS INTO THE GOVERNMENT.

9. NIMEIRI'S GOVERNMENT HAS SURVIVED FIVE ATTEMPTED COUP D'ETATS. DURING THE LAST COUP ATTEMPT IN JULY 1976 BOTH THE ARMY AND THE SOUTH REMAINED LOYAL TO THE REGIME. THE ATTACKS WERE MADE BY DISSIDENT WESTERN SUDANESE, SUPPORTED (ACCORDING TO THE GOVERNMENT OF THE SUDAN) BY LIBYA.

10. GOVERNMENT MEASURES TAKEN FOLLOWING THE LATEST COUP ATTEMPT HAVE BEEN CONSIDERABLY MORE SEVERE THAN FOLLOWING THE FOUR PREVIOUS ATTEMPTS, PERHAPS AS A REACTION TO THE KILLING OF AN ESTIMATED 400 PEOPLE BY THE REBELS. IT IS BELIEVED THAT AMONG THOSE REBELS ARRESTED, SOMEWHAT OVER 200 PARTICIPANTS HAVE BEEN TRIED AND EXECUTED FOR TREASON-CONFIDENTIAL

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OUS ACTS UNDER ARTICLE 96 OF THE PENAL CODE.

11. THE SUDANESE SOCIALIST UNION IS THE ONLY LEGAL POLITICAL PARTY, OTHERS BEING BANNED. WHILE POLITICIANS ASSOCIATED WITH PARTIES OR MOVEMENTS PREDATING THE PRESENT REGIME CAN EXPRESS THEIR VIEWS IN PRIVATE, THEY RISK ARREST IF THEY ATTEMPT TO ORGANIZE IN OPPOSITION, AND THEY HAVE NO ACCESS TO THE GOVERNMENT-CONTROLLED PRESS. MORE VOCAL CRITICS HAVE CHOSEN TO REMAIN ABROAD.

12. (II) LEGAL SITUATION:

THE PERMANENT CONSTITUTION OF THE SUDAN (ISSUED IN MAY 1973) PROVIDES GUARANTEES TO CITIZENS AGAINST DISCRIMINATION ON THE GROUNDS OF ORIGIN, RACE, SEX, LANGUAGE, RELIGION OR LOCALITY. EXCEPT AS ORDAINED BY THE RELIGIOUS

CODE OF ISLAM WITH RESPECT TO SEX, SUCH DISCRIMINATION IS NOT IN FACT PRACTICED AS A MATTER OF POLICY. FREEDOM OF MOVEMENT AND RESIDENCE IS GUARANTEED EXCEPT FOR REASONS OF SECURITY AND HEALTH. THE PRIVATE LIVES AND DWELLINGS OF CITIZENS ARE DECLARED INVIOABLE, AND THE FREEDOM OF THE PRESS, ASSEMBLY AND OF ASSOCIATION ARE GUARANTEED "IN ACCORDANCE WITH THE PROVISIONS OF THE LAW." WHILE NOT WHOLLY INDEPENDENT, THE JUDICIAL SYSTEM NORMALLY OPERATES

IN A MANNER THAT ADEQUATELY SAFEGUARDS THE RIGHTS OF THE ACCUSED.

13. THE NUMBER OF REVOLTS AGAINST THE NIMEIRI GOVERNMENT HAVE CAUSED THE REGIME TO TAKE STEPS TO PROTECT ITSELF. FOLLOWING AN UNSUCCESSFUL COUP ATTEMPT IN SEPTEMBER 1975 THE PEOPLE'S ASSEMBLY AMENDED THE ARMED FORCES, THE PUBLIC SERVICE PENSION, AND STATE SECURITY ACTS TO MAKE CIVILIANS SUBJECT TO MILITARY TRIAL IN CERTAIN CASES, TO DEPRIVE DISMISSED CIVIL SERVANTS OF LEGAL REDRESS, AND TO PERMIT PREVENTIVE DETENTION WITHOUT TIME LIMITS. HOWEVER, DETAINED PERSONS MUST BE INFORMED OF THE REASONS FOR DETENTION.

14. THE CONSTITUTION WAS ALSO AMENDED TO PROVIDE FOR "STATE SECURITY COURTS" TO HAVE JURISDICTION IN CASES OF HIGH TREASON AND TO PERMIT THE PRESIDENT TO TAKE ANY ACTION AND MAKE ANY DECISIONS IN PURSUANCE OF HIS RESPONSIBILITIES.

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SIBILITY TO PROTECT THE CONSTITUTION, THE COUNTRY AND THE "MAY REVOLUTION."

15. (III) OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS: (A) INTEGRITY OF THE PERSON
ARTICLE 3 - THE RIGHT TO LIFE, LIBERTY AND SECURITY OF THE PERSON IS GENERALLY OBSERVED.

ARTICLE 5 - THERE ARE NO INDICATIONS THAT TORTURE OR CRUEL, INHUMANE, OR DEGRADING TREATMENT OR PUNISHMENT IS CONDONED IN THE SUDAN.

ARTICLE 8 - ACCESS TO LEGAL REMEDIES IS GENERALLY AVAILABLE.

ARTICLE 9 - POLITICAL DISSIDENTS ARE ARRESTED AND DETAINED ON SUSPICION OF ACTIVELY INCITING OPPOSITION TO THE REGIME, BUT NOT SIMPLY BECAUSE THEY ARE KNOWN TO HOLD CERTAIN VIEWS OR BECAUSE THEY VOICE THEIR BELIEFS. MORE OFTEN THAN NOT, DETAINEES ARE RELEASED WITHIN SEVERAL MONTHS OF THEIR ARREST. IT IS BELIEVED THAT SEVERAL HUNDRED PERSONS ARE NOW UNDER DETENTION FOR POLITICAL REASONS.

ARTICLE 10 - GUARANTEES WITH RESPECT TO FAIR HEARINGS ARE AVAILABLE AND GENERALLY OBSERVED, EXCEPT FOR POLITICAL DETAINEES.

ARTICLE 11 - FAIR TRIALS WITH APPROPRIATE GUARANTEES APPEAR TO BE THE STANDARD IN THE SUDAN, BUT THERE IS NO INDEPENDENT RELIABLE INFORMATION BY WHICH TO FORM ANY CONCLUSIONS CONCERNING THE TRIALS WHICH FOLLOWED THE RECENT COUP ATTEMPT

16. (B) OTHER IMPORTANT FREEDOMS
WHILE POLITICAL FREEDOM INCLUDING THE RIGHTS OF ASSEMBLY AND FREEDOM OF SPEECH CAN BE EXERCISED ONLY WITHIN LIMITS IN THE SUDAN, THE CONSTITUTION AND THE STATE ARE CAREFUL TO PROTECT RELIGIOUS FREEDOM AND "THE PRIVATE LIFE OF THE CITIZENRY." THE GOVERNMENT HAS ALSO STRIVEN TO FOSTER THE WELL-BEING OF THE SOUTH AS WELL AS THE NORTH AND ATTEMPTS TO CARE FOR THOUSANDS OF REFUGEES WHO HAVE FLED TO THE SUDAN FROM NEIGHBORING COUNTRIES.
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17. (IV) OTHER HUMAN RIGHTS REPORTING
IN THE AMNESTY INTERNATIONAL REPORT FOR 1975-76 THE INCREASED POWERS GRANTED THE GOVERNMENT FOLLOWING THE SEPTEMBER 1975 COUP ATTEMPT WERE NOTED, AS WERE THE ARRESTS, AND TRIALS, AND SENTENCES WHICH FOLLOWED.

18. FREEDOM HOUSE LISTS SUDAN AS "NOT FREE."
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